

The Plant Quarantine Act, referred to in subsecs. (b) and (h), is act Aug. 20, 1912, ch. 308, 37 Stat. 315, as amended, which is classified generally to chapter 8 (§151 et seq.) of this title. For complete classification of this Act to the Code, see Short Title note set out under section 151 of this title and Tables.

The Mexican Border Act, referred to in subsec. (i), is act Jan. 31, 1942, ch. 31, 56 Stat. 40, as amended, which is classified to section 149 of this title.

SHORT TITLE

Section 101 of Pub. L. 85-36 provided that: “This title [enacting this chapter and provisions set out as a note under section 147a of this title, amending section 149 of this title and repealing sections 141 to 144 and 441 of this title] may be cited as the ‘Federal Plant Pest Act’.”

§ 150bb. Movement of pests prohibited

(a) In general

No person shall import or enter any plant pest into the United States, or move any plant pest interstate, or accept delivery of any plant pest moving from any foreign country into or through the United States, or interstate, unless the movement is made in accordance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.

(b) Regulations

The regulations promulgated by the Secretary to implement subsection (a) of this section may include regulations requiring that a plant pest moving into or through the United States, or interstate—

(1) be accompanied by a permit issued by the Secretary prior to the movement of the plant pest; or

(2) be accompanied by a certificate of inspection issued, in a manner and form required by the Secretary, by appropriate officials of the country or State from which the plant pest is to be moved.

(Pub. L. 85-36, title I, §103, May 23, 1957, 71 Stat. 32; Pub. L. 97-461, §1(a), Jan. 12, 1983, 96 Stat. 2523; Pub. L. 100-449, title III, §301(f)(1), Sept. 28, 1988, 102 Stat. 1868; Pub. L. 103-465, title IV, §431(c)(1), Dec. 8, 1994, 108 Stat. 4967.)

AMENDMENTS

1994—Pub. L. 103-465 amended section generally, substituting present provisions for former subsecs. (a) to (c) which prohibited movement of plant pests into or through United States unless permitted by Secretary, provided for conditions for granting or refusing permits for such movement, and provided for movement of plant pests from Canada into or through United States only in accordance with such regulations as Secretary may promulgate.

1988—Subsec. (a). Pub. L. 100-449, §301(f)(1)(A), substituted “Except as provided in subsection (c) of this section, no person shall” for “No person shall”.

Subsec. (c). Pub. L. 100-449, §301(f)(1)(B), added subsec. (c).

1983—Subsec. (a). Pub. L. 97-461 struck out “knowingly” wherever appearing.

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103-465 effective on the date of entry into force of the WTO Agreement with respect to the United States (Jan. 1, 1995), except as otherwise provided, see section 451 of Pub. L. 103-465, set out as an Effective Date note under section 3601 of Title 19, Customs Duties.

EFFECTIVE AND TERMINATION DATES OF 1988 AMENDMENT

Amendment by Pub. L. 100-449 effective on date United States-Canada Free-Trade Agreement enters into force (Jan. 1, 1989), and to cease to have effect on date Agreement ceases to be in force, see section 501(a), (c) of Pub. L. 100-449, set out in a note under section 2112 of Title 19, Customs Duties.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 150gg of this title; title 39 section 3015.

§ 150cc. Mailing of pests; opening of mail; exception

(a) Any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, unless it is mailed in conformance with such regulations as the Secretary may promulgate to prevent the dissemination into the United States, or interstate, of plant pests.

(b) Nothing in this chapter shall authorize any person to open any letter or other sealed matter except in accordance with the postal laws and regulations.

(c) The prohibitions of this chapter shall not apply to any employee of the United States in the performance of his duties in handling mail.

(Pub. L. 85-36, title I, §104, May 23, 1957, 71 Stat. 32; Pub. L. 100-449, title III, §301(f)(2), Sept. 28, 1988, 102 Stat. 1869; Pub. L. 103-465, title IV, §431(c)(2), Dec. 8, 1994, 108 Stat. 4967.)

REFERENCES IN TEXT

In the original, “this chapter” was “this Act”. See note set out under section 150aa of this title.

AMENDMENTS

1994—Subsec. (a). Pub. L. 103-465, §431(c)(2)(A), amended subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: “Except as provided in subsection (b) of this section, any letter, parcel, box, or other package containing any plant pest, whether sealed as letter-rate postal matter or not, is declared to be nonmailable, and will not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, except when accompanied by a copy of a permit issued under this chapter.”

Subsecs. (b) to (d). Pub. L. 103-465, §431(c)(2)(B), (C), redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which read as follows: “Any letter, parcel, box, or other package from Canada containing any plant pest, whether sealed as letter-rate postal matter or not, is declared to be nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, except in accordance with such regulations as the Secretary may promulgate under this section to prevent the dissemination into the United States of plant pests.”

1988—Subsec. (a). Pub. L. 100-449, §301(f)(2)(A), substituted “Except as provided in subsection (b) of this section, any letter” for “Any letter”.

Subsecs. (b) to (d). Pub. L. 100-449, §301(f)(2)(B), (C), added subsec. (b) and redesignated former subsecs. (b) and (c) as (c) and (d), respectively.

EFFECTIVE DATE OF 1994 AMENDMENT

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SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 3015.

§ 150dd. Emergency measures by Secretary

(a) Remedial measures or disposal by Secretary

Except as provided in subsection (c) of this section, the Secretary may, whenever he deems it necessary as an emergency measure in order to prevent the dissemination of any plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as he deems appropriate, any product or article of any character whatsoever, or means of conveyance, which is moving into or through the United States, or interstate, and which he has reason to believe is infested or infected by or contains any such plant pest, or which has moved into the United States, or interstate, and which he has reason to believe was infested or infected by or contained any such plant pest at the time of such movement; and any plant pest, product, article, or means of conveyance which is moving into or through the United States, or interstate, or has moved into the United States, or interstate, in violation of this chapter or any regulation thereunder: *Provided*, That this subsection shall not authorize such action with respect to any product, article, means of conveyance, or plant pest subject, at the time of the proposed action, to disposal under the Plant Quarantine Act [7 U.S.C. 151 et seq.].

(b) Additional remedial measures; payment of compensation; authorization of appropriations

(1) Whereas, the existence of a plant pest new to or not theretofore known to be widely prevalent or distributed within and throughout the United States on any premises in the United States would constitute a threat to crops, other plant life, and plant products of the Nation and thereby seriously burden interstate or foreign commerce, whenever the Secretary determines that an extraordinary emergency exists because of the presence of such plant pest on any premises in the United States, and that the presence of such plant pest anywhere in the United States threatens the crops, other plant life, or plant products of the United States, the Secretary may (A) seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of, in such manner as the Secretary deems appropriate, any product or article of any character whatsoever, or means of conveyance which the Secretary has reason to believe is infested or infected by or contains any such plant pest; (B) quarantine, treat, or apply other remedial meas-

ures to, in such manner as the Secretary deems appropriate, any premises, including articles on such premises which the Secretary has reason to believe are infested or infected by any such plant pest: *Provided*, That any action taken under clauses (A) and (B) shall be consistent with the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.]: *Provided further*, That such action may be taken under this subsection only if the Secretary finds after review of measures taken by the State or other jurisdiction and after consultation with the Governor that the measures being taken are inadequate. Before any action is taken in any State or other jurisdiction under this subsection, the Secretary shall notify the Governor of the State or other jurisdiction, shall issue a public announcement and shall file a statement for publication in the Federal Register of the action the Secretary intends to take together with the findings and reasons therefor: *Provided*, That if it is not possible to make such a filing with the Federal Register prior to taking action, the filing shall be made within a reasonable time, not to exceed five business days, after commencement of the action. If the Secretary wishes to change any action previously taken under this subsection, the Secretary shall follow the procedure set forth in the preceding sentence. The cost of any action taken by the Secretary under this subsection shall be at the expense of the United States.

(2) The Secretary may pay compensation to producers and other persons for economic losses incurred by them as a result of the quarantine, destruction, or other action taken under the authority of paragraph (1) of this subsection. The determination by the Secretary of the amount of any compensation to be paid under this subsection shall be final.

(3) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this subsection.

(c) Ordering treatment or disposal by owner; procedure

Except as provided in subsection (c) of this section, the Secretary may order the owner of any product, article, means of conveyance, or plant pest subject to disposal under subsection (a) of this section, or his agent, to treat, apply other remedial measures to, destroy, or make other disposal of such product, article, means of conveyance, or plant pest, without cost to the Federal Government and in such manner as the Secretary deems appropriate. The Secretary may apply to the United States district court, or to the United States court of any Territory or possession, for the judicial district in which such person resides or transacts business or in which the product, article, means of conveyance, or plant pest is found, for enforcement of such order by injunction, mandatory or otherwise. Process in any such case may be served in any judicial district wherein the defendant resides or transacts business or may be found, and subpoena for witnesses who are required to attend a court in any judicial district in such a case may run into any other judicial district.